

AMENDED IN SENATE JULY 6, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 260

**Introduced by Assembly Member Lopez
(Coauthor: Assembly Member Cristina Garcia)**

February 9, 2015

An act to amend Sections 300 and 16002.5 of, and to add Sections 361.8 and 825.5 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 260, as amended, Lopez. Foster care: parenting youth.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a child to be a dependent of the court under certain circumstances, including when the child has been left without any provision for support or when a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law provides that the Legislature declares that a child whose parent has been adjudged a dependent child of the court shall not be considered at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

This bill would additionally declare that a child whose parent has been adjudged a dependent child of the court shall not be considered at risk of abuse or neglect solely on the basis of information concerning the parent's placement history, past behaviors, health or mental health diagnoses occurring prior to the pregnancy, except as specified.

Existing law provides that reunification services need not be provided to the family of a ~~dependant~~ *dependent* child under certain circumstances.

This bill would enact certain exceptions to that provision that would apply in the case of a child for whom one or both minor parents have been adjudged to be dependent children of the juvenile court. The bill would also require, in those cases, a party seeking an involuntary foster care placement of, or termination of parental rights over, a child born to a parent or parents who were minors at the time of the child's birth to demonstrate to the court that reasonable efforts were made to provide remedial services designed to prevent the removal of the child from the minor parent or parents, that these efforts have proved unsuccessful, and that those efforts utilize the available resources of the child and his or her minor parent or parents extended family, social services agencies, caregivers, and other available service providers. By imposing a higher level of service on county employees, the bill would impose a state-mandated local program.

Existing law requires the clerk of the superior court to open a separate court file for nonminor dependents under the dependency, delinquency, or transition jurisdiction of the court and limits access to those files.

This bill would require the clerk of the superior court to maintain court files and records concerning a minor dependent parent or a nonminor dependent parent separate from court files and records concerning his or her child, as specified. The bill would authorize dependency court records concerning a minor dependent parent or a nonminor dependent parent to be disclosed to the county *and the court* in the child's dependency proceedings, but would ~~prohibit those~~ *require information from the records from being to only be* admitted as evidence in the child's dependency proceedings, ~~except~~ *proceedings* pursuant to a certain court order.

Existing law declares the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor dependent parents and nonminor dependent parents. Existing law requires foster care placements for minor parents and their children to demonstrate a willingness and ability to provide support and assistance to minor parents and their children.

This bill would additionally require those foster care placements to support the preservation of the family unit and provide preventive services to address any concerns regarding the safety, health, or

well-being of the child, and to prevent, whenever possible, the filing of a petition to declare the child a dependent of the juvenile court.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 300 of the Welfare and Institutions Code
2 is amended to read:

3 300. Any child who comes within any of the following
4 descriptions is within the jurisdiction of the juvenile court which
5 may adjudge that person to be a dependent child of the court:

6 (a) The child has suffered, or there is a substantial risk that the
7 child will suffer, serious physical harm inflicted nonaccidentally
8 upon the child by the child's parent or guardian. For the purposes
9 of this subdivision, a court may find there is a substantial risk of
10 serious future injury based on the manner in which a less serious
11 injury was inflicted, a history of repeated inflictions of injuries on
12 the child or the child's siblings, or a combination of these and other
13 actions by the parent or guardian which indicate the child is at risk
14 of serious physical harm. For purposes of this subdivision, "serious
15 physical harm" does not include reasonable and age-appropriate
16 spanking to the buttocks where there is no evidence of serious
17 physical injury.

18 (b) (1) The child has suffered, or there is a substantial risk
19 that the child will suffer, serious physical harm or illness, as a
20 result of the failure or inability of his or her parent or guardian to
21 adequately supervise or protect the child, or the willful or negligent
22 failure of the child's parent or guardian to adequately supervise
23 or protect the child from the conduct of the custodian with whom
24 the child has been left, or by the willful or negligent failure of the
25 parent or guardian to provide the child with adequate food,
26 clothing, shelter, or medical treatment, or by the inability of the

1 parent or guardian to provide regular care for the child due to the
2 parent's or guardian's mental illness, developmental disability, or
3 substance abuse. No child shall be found to be a person described
4 by this subdivision solely due to the lack of an emergency shelter
5 for the family. Whenever it is alleged that a child comes within
6 the jurisdiction of the court on the basis of the parent's or
7 guardian's willful failure to provide adequate medical treatment
8 or specific decision to provide spiritual treatment through prayer,
9 the court shall give deference to the parent's or guardian's medical
10 treatment, nontreatment, or spiritual treatment through prayer alone
11 in accordance with the tenets and practices of a recognized church
12 or religious denomination, by an accredited practitioner thereof,
13 and shall not assume jurisdiction unless necessary to protect the
14 child from suffering serious physical harm or illness. In making
15 its determination, the court shall consider (1) the nature of the
16 treatment proposed by the parent or guardian, (2) the risks to the
17 child posed by the course of treatment or nontreatment proposed
18 by the parent or guardian, (3) the risk, if any, of the course of
19 treatment being proposed by the petitioning agency, and (4) the
20 likely success of the courses of treatment or nontreatment proposed
21 by the parent or guardian and agency. The child shall continue to
22 be a dependent child pursuant to this subdivision only so long as
23 is necessary to protect the child from risk of suffering serious
24 physical harm or illness.

25 (2) The Legislature finds and declares that a child who is
26 sexually trafficked, as described in Section 236.1 of the Penal
27 Code, or who receives food or shelter in exchange for, or who is
28 paid to perform, sexual acts described in Section 236.1 or 11165.1
29 of the Penal Code, and whose parent or guardian failed to, or was
30 unable to, protect the child, is within the description of this
31 subdivision, and that this finding is declaratory of existing law.
32 These children shall be known as commercially sexually exploited
33 children.

34 (c) The child is suffering serious emotional damage, or is at
35 substantial risk of suffering serious emotional damage, evidenced
36 by severe anxiety, depression, withdrawal, or untoward aggressive
37 behavior toward self or others, as a result of the conduct of the
38 parent or guardian or who has no parent or guardian capable of
39 providing appropriate care. No child shall be found to be a person
40 described by this subdivision if the willful failure of the parent or

1 guardian to provide adequate mental health treatment is based on
2 a sincerely held religious belief and if a less intrusive judicial
3 intervention is available.

4 (d) The child has been sexually abused, or there is a substantial
5 risk that the child will be sexually abused, as defined in Section
6 11165.1 of the Penal Code, by his or her parent or guardian or a
7 member of his or her household, or the parent or guardian has
8 failed to adequately protect the child from sexual abuse when the
9 parent or guardian knew or reasonably should have known that
10 the child was in danger of sexual abuse.

11 (e) The child is under the age of five years and has suffered
12 severe physical abuse by a parent, or by any person known by the
13 parent, if the parent knew or reasonably should have known that
14 the person was physically abusing the child. For the purposes of
15 this subdivision, “severe physical abuse” means any of the
16 following: any single act of abuse which causes physical trauma
17 of sufficient severity that, if left untreated, would cause permanent
18 physical disfigurement, permanent physical disability, or death;
19 any single act of sexual abuse which causes significant bleeding,
20 deep bruising, or significant external or internal swelling; or more
21 than one act of physical abuse, each of which causes bleeding,
22 deep bruising, significant external or internal swelling, bone
23 fracture, or unconsciousness; or the willful, prolonged failure to
24 provide adequate food. A child may not be removed from the
25 physical custody of his or her parent or guardian on the basis of a
26 finding of severe physical abuse unless the social worker has made
27 an allegation of severe physical abuse pursuant to Section 332.

28 (f) The child’s parent or guardian caused the death of another
29 child through abuse or neglect.

30 (g) The child has been left without any provision for support;
31 physical custody of the child has been voluntarily surrendered
32 pursuant to Section 1255.7 of the Health and Safety Code and the
33 child has not been reclaimed within the 14-day period specified
34 in subdivision (e) of that section; the child’s parent has been
35 incarcerated or institutionalized and cannot arrange for the care of
36 the child; or a relative or other adult custodian with whom the child
37 resides or has been left is unwilling or unable to provide care or
38 support for the child, the whereabouts of the parent are unknown,
39 and reasonable efforts to locate the parent have been unsuccessful.

1 (h) The child has been freed for adoption by one or both parents
2 for 12 months by either relinquishment or termination of parental
3 rights or an adoption petition has not been granted.

4 (i) The child has been subjected to an act or acts of cruelty by
5 the parent or guardian or a member of his or her household, or the
6 parent or guardian has failed to adequately protect the child from
7 an act or acts of cruelty when the parent or guardian knew or
8 reasonably should have known that the child was in danger of
9 being subjected to an act or acts of cruelty.

10 (j) The child's sibling has been abused or neglected, as defined
11 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
12 that the child will be abused or neglected, as defined in those
13 subdivisions. The court shall consider the circumstances
14 surrounding the abuse or neglect of the sibling, the age and gender
15 of each child, the nature of the abuse or neglect of the sibling, the
16 mental condition of the parent or guardian, and any other factors
17 the court considers probative in determining whether there is a
18 substantial risk to the child.

19 It is the intent of the Legislature that nothing in this section
20 disrupt the family unnecessarily or intrude inappropriately into
21 family life, prohibit the use of reasonable methods of parental
22 discipline, or prescribe a particular method of parenting. Further,
23 nothing in this section is intended to limit the offering of voluntary
24 services to those families in need of assistance but who do not
25 come within the descriptions of this section. To the extent that
26 savings accrue to the state from child welfare services funding
27 obtained as a result of the enactment of the act that enacted this
28 section, those savings shall be used to promote services which
29 support family maintenance and family reunification plans, such
30 as client transportation, out-of-home respite care, parenting
31 training, and the provision of temporary or emergency in-home
32 caretakers and persons teaching and demonstrating homemaking
33 skills. The Legislature further declares that a physical disability,
34 such as blindness or deafness, is no bar to the raising of happy and
35 well-adjusted children and that a court's determination pursuant
36 to this section shall center upon whether a parent's disability
37 prevents him or her from exercising care and control.

38 As used in this section, "guardian" means the legal guardian of
39 the child.

1 SEC. 2. Section 361.8 is added to the Welfare and Institutions
2 Code, to read:

3 361.8. (a) The Legislature declares that a child for whom one
4 or both parents have been adjudged to be dependent children of
5 the juvenile court pursuant to Section 300 shall not be considered
6 to be at risk of abuse or neglect solely because of the age,
7 ~~dependant~~ *dependent* status, or foster care status of the parents.
8 The Legislature further declares that the child shall not be
9 considered to be at risk of abuse or neglect solely on the basis of
10 information concerning the parent's or parents' placement history,
11 past behaviors, or health or mental health diagnoses occurring
12 prior to the pregnancy, although that information may be taken
13 into account when considering whether other factors exist that
14 place the child at risk of abuse or neglect.

15 (b) In the case of a child for whom one or both minor parents
16 have been adjudged to be dependent children of the juvenile court
17 pursuant to Section 300, all of the following shall apply:

18 (1) Paragraphs (10) and (11) of subdivision (b) of Section 361.5
19 shall not apply, unless one or more of the circumstances described
20 in paragraphs (1) to (9), inclusive, and paragraphs (12) to (16),
21 inclusive, of subdivision (b) of Section 361.5 apply.

22 (2) A party seeking an involuntary foster care placement of, or
23 termination of parental rights over, a child born to a parent or
24 parents who were minors at the time of the child's birth shall
25 demonstrate to the court that reasonable efforts were made to
26 provide remedial services designed to prevent the removal of the
27 child from the minor parent or parents, and that these efforts have
28 proved unsuccessful.

29 (3) The efforts made pursuant to paragraph (2) shall utilize the
30 available resources of the child and his or her minor parent's or
31 parents' extended family, social services agencies, caregivers, and
32 other available service providers.

33 (c) For purposes of this section, "child" and "minor parent"
34 shall have the same definitions as in Section 16002.5.

35 SEC. 3. Section 825.5 is added to the Welfare and Institutions
36 Code, to read:

37 825.5. The clerk of the superior court shall maintain court files
38 and records concerning a minor dependent parent or a nonminor
39 dependent parent of a child who is the subject of a dependency
40 petition separate from court files and records concerning the child.

1 Dependency court records concerning a minor dependent parent
2 or a nonminor dependent parent may be disclosed to the county
3 *and the court* in the child's dependency proceedings; however, ~~the~~
4 ~~records shall not be admitted as evidence in the child's dependency~~
5 ~~proceedings, except pursuant to a court order made in the course~~
6 ~~of the child's proceedings that the files and records contain~~
7 ~~information that~~ *information from the records shall only be*
8 *admitted as evidence in the child's dependency proceedings*
9 *pursuant to a court order finding that the information* is materially
10 relevant to the case, subject to the provisions of subdivision (a) of
11 Section 361.8.

12 SEC. 4. Section 16002.5 of the Welfare and Institutions Code
13 is amended to read:

14 16002.5. It is the intent of the Legislature to maintain the
15 continuity of the family unit and to support and preserve families
16 headed by minor parents and nonminor dependent parents who
17 are themselves under the jurisdiction of the juvenile court by
18 ensuring that minor parents and nonminor dependent parents and
19 their children are placed together in as family-like a setting as
20 possible, unless it has been determined that placement together
21 poses a risk to the child. It is also the intent of the Legislature to
22 ensure that complete and accurate data on parenting minor and
23 nonminor dependents is collected, and that the State Department
24 of Social Services shall ensure that the following information is
25 publicly available on a quarterly basis by county about parenting
26 minor and nonminor dependents: total number of parenting minor
27 and nonminor dependents in each county, their age, their ethnic
28 group, their placement type, their time in care, the number of
29 children they have, and whether their children are court dependents.

30 (a) To the greatest extent possible, minor parents and nonminor
31 dependent parents and their children shall be provided with access
32 to existing services for which they may be eligible, that are
33 specifically targeted at supporting, maintaining, and developing
34 both the parent-child bond and the dependent parent's ability to
35 provide a permanent and safe home for the child. Examples of
36 these services may include, but are not limited to, child care,
37 parenting classes, child development classes, and frequent
38 visitation.

39 (b) Child welfare agencies may provide minor parents and
40 nonminor dependent parents with access to social workers or

1 resource specialists who have received training on the needs of
2 teenage parents and available resources, including, but not limited
3 to, maternal and child health programs, child care, and child
4 development classes. Child welfare agencies are encouraged to
5 update the case plans for pregnant and parenting dependents within
6 60 calendar days of the date the agency is informed of a pregnancy.
7 When updating the case plan, child welfare agencies may hold a
8 specialized conference to assist pregnant or parenting foster youth
9 and nonminor dependents with planning for healthy parenting and
10 identifying appropriate resources and services, and to inform the
11 case plan. The specialized conference shall include the pregnant
12 or parenting minor or nonminor dependent, family members, and
13 other supportive adults, and the specially trained social worker or
14 resource specialist. The specialized conference may include other
15 individuals, including, but not limited to, a public health nurse, a
16 community health worker, or other personnel with a comprehensive
17 knowledge of available maternal and child resources, including
18 public benefit programs. Participation in the specialized conference
19 shall be voluntary on the part of the foster youth or nonminor
20 dependent and assistance in identifying and accessing resources
21 shall not be dependent on participation in the conference.

22 (c) The minor parents and nonminor dependent parents shall be
23 given the ability to attend school, complete homework, and
24 participate in age and developmentally appropriate activities
25 unrelated to and separate from parenting.

26 (d) Child welfare agencies, local educational agencies, and child
27 care resource and referral agencies may make reasonable and
28 coordinated efforts to ensure that minor parents and nonminor
29 dependent parents who have not completed high school have access
30 to school programs that provide onsite or coordinated child care.

31 (e) Foster care placements for minor parents and nonminor
32 dependent parents and their children shall demonstrate a
33 willingness and ability to provide support and assistance to minor
34 parents and nonminor dependent parents and their children, shall
35 support the preservation of the family unit, and shall provide
36 preventive services to address any concerns regarding the safety,
37 health, or well-being of the child, and to prevent, whenever
38 possible, the filing of a petition to declare the child a dependent
39 of the juvenile court pursuant to Section 300.

1 (f) Contact between the child, the custodial parent, and the
2 noncustodial parent shall be facilitated if that contact is found to
3 be in the best interest of the child.

4 (g) For the purpose of this section, “child” refers to the child
5 born to the minor parent.

6 (h) For the purpose of this section, “minor parent” refers to a
7 dependent child who is also a parent.

8 (i) For the purpose of this section, “nonminor dependent parent”
9 refers to a nonminor dependent, as described in subdivision (v) of
10 Section 11400, who also is a parent.

11 SEC. 5. If the Commission on State Mandates determines that
12 this act contains costs mandated by the state, reimbursement to
13 local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.